


MEMORANDUM

Engineering Division



To: City Council
Through: Thomas J. Wilson, City Manager
From:  Greg Armendariz, Assistant City Engineer
Subject: Berryessa Creek Trail Reach 3, Project 5074—Additional information regarding Disadvantaged Business Enterprise requirements and bid protest
Date: February 11, 2004

Background

Berryessa Creek Trail, Reach 3, Project 5074 is funded in part by a federal grant from the U.S. Department of Transportation that involves various special requirements. One of the requirements is that recipients adopt a Disadvantaged Business Enterprise (DBE) program to ensure that DBE firms have an opportunity to participate in federal aid projects. The City of Milpitas adopted such a program in 2001. The City's program complies with the applicable regulations, including Code of Federal Regulations, Title 49, Part 26.

The City's program is updated annually to include a percent participation goal for use of DBE firms on Milpitas' federal aid projects. This year's goal is 14%. Contractors that submit bids on projects with federal funding must either meet the % participation goal, or show that they made a "Good Faith Effort" to involve DBE subcontractors per the regulations.

On January 28, 2004 nine bids were received and opened for Berryessa Creek Trail, Reach 3. The low bidder was Bugler Construction of Fremont. The second low bidder was Grade Tech of Castro Valley. The City received a bid protest letter from Grade Tech on February 2 on the basis that Bugler Construction did not meet the project's DBE requirements.

Bid Protest Evaluation

Staff secured background documentation from the lowest bidders regarding their DBE efforts in accordance with proposal requirements. Staff met with the lowest bidder and the second lowest bidder to ensure that their DBE efforts were clearly understood, and that the reason for the latter's protest was also clearly understood. Thereafter, staff conducted a review of the bidders' use of DBE firms, Good Faith Efforts, and compliance with federal requirements. A professional consulting firm with federal aid experience, 4 Leaf Inc., assisted the City in evaluating bidders' compliance with the DBE requirements. The City Attorney's Office participated in assessing the applicable federal requirements, reviewing bidders' compliance with the requirements, and evaluating the protest. Bugler Construction has shown good faith efforts to meet the City's DBE goals, in addition to providing more than 7% DBE participation. The bid protest from Grade Tech was found to have no merit. A written response of this conclusion has been provided to Grade Tech.

Recommendation

In collaboration with the City Attorney, staff has found that the low bid from Bugler Construction satisfied the applicable federal requirements and is responsive. Staff recommends that the bid protest be rejected, and that the contract be awarded to Bugler Construction for \$534,700.00.

RESOLUTION
Santa Clara Valley Water District
2000 Clean, Safe Creeks and Natural Flood Protection
Trails and Open Space Grant Program
Resolution No. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS

APPROVING THE APPLICANT TO APPLY FOR GRANT FUNDS FOR THE TRAILS AND OPEN SPACE GRANT PROGRAM UNDER THE CLEAN, SAFE CREEKS AND NATURAL FLOOD PROTECTION PROGRAM OF 2000

WHEREAS, the Santa Clara Valley Water District has enacted the Trails and Open Space Grant Program, which provides funds for the acquisition and development of neighborhood, community, and regional parks and recreation lands and facilities; and

WHEREAS, the Santa Clara Valley Water District's Watershed Planning Unit has been delegated the responsibility for the administration of the grant program; and

WHEREAS, the procedures established by the Santa Clara Valley Water District require Grantee's Governing Body to certify by resolution the approval of Grantee to apply for Trails and Open Space Grant Program funds, and

WHEREAS, Grantee will enter into an Agreement with the Contract with the Santa Clara Valley Water District;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milpitas hereby:

1. Approves the filing of an Application for local assistance funds from the Trails and Open Space Grant Program under the Clean, Safe Creeks and Natural Flood Protection Program of 2000; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project(s); and
3. Certifies that the Applicant has reviewed, understands and agrees to the Special Provisions, General Provisions and Financial Provisions contained in the Agreement; and
4. Appoints the City Engineer as agent to conduct all negotiations, execute and submit all documents including, but not limited to, Applications, agreements, payment requests and so on, which may be necessary for the completion of the Project(s).

Approved and Adopted on the 17th day of February, 2004.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Milpitas following a roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

65707_R

Budget # _____

Refer # _____

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
<input type="checkbox"/> Budget Appropriation	321-9515074153575	\$90,000	321-951507474800	\$90,000
<input type="checkbox"/> Budget Transfer				

Explain the reason for the budget change:

On December 16, 2003, the City Council approved plans and specifications for Berryessa Creek Trail, Reach 3 and authorized advertising for bids. The improvements consist of a new pedestrian/bicycle bridge that spans the creek at Gill Park, approximately 1 1/4 miles of trail surfacing along Berryessa Creek from Abel Street to Hillview Drive, and related trail amenities.

This project is funded in part by a federal grant. The grant requires that bidders provide special certifications and meet specific requirements. These submittals must be received within four business days after the bid opening.

In 2003, staff applied for a \$90,000 grant from the Santa Clara Valley Water District towards the cost of constructing the pedestrian bridge. In September, we received notification that the application was successful and would be funded. The Water District plans to release draft grant contracts this week. This grant will reimburse the City for construction expenses incurred. Staff recommends authorizing an appropriation of \$90,000.

Approve the budget appropriation of \$90,000 to provide a new pedestrian/bicycle bridge that spans the creek at Gill Park for CIP5074 – Berryessa Creek Trail Reach 3.

☐ Check if City Council Approval required.

Meeting Date: February 17, 2004

Itemization of funds, if needed:			Amount
Requested by:	Division Head: <i>McNulty</i>	Date:	
	Department Head:	Date:	
Reviewed by:	Finance Director: <i>Jim C. Hall</i>	Date: 7/10/04	
Approved by:	City Manager:	Date:	
Date approved by City Council, if required:		Confirmed by:	

JOB TITLE: Berryessa Creek Trail, Reach 3											
PROJECT NO: 5078											
Federal Aid Project No. STPLF 5314 (001)											
Bid Date: January 28, 2004											
City	Unit	Engineer's Estimate	Buyer Construction	Grade Tech	Gravelly Rock d/ba Pavement Construction	Gravelly Construction	J. W. Riley & Sons	Faifa	Archeval Bros	Crystel Fawing	HRB
Item No.	DESCRIPTION	Unit	Extension	Unit	Extension	Unit	Extension	Unit	Extension	Unit	Extension
1	1.5" 220,000.00	\$20,000.00	\$45,000.00	\$80,000.00	\$95,000.00	\$73,500.00	\$17,000.00	\$35,500.00	\$38,775.00	\$30,000.00	\$119,745.00
2	2. Traffic control	\$1,000.00	\$1,000.00	\$1,000.00	\$5,000.00	\$8,000.00	\$4,900.00	\$10,007.00	\$17,600.00	\$5,000.00	\$4,387.00
3	3. Adjust entrances & drainage	\$5,000.00	\$5,000.00	\$1,000.00	\$10,000.00	\$9,000.00	\$9,500.00	\$4,159.50	\$7,447.00	\$5,000.00	\$3,484.00
4	4. Openings & removal	\$10,000.00	\$10,000.00	\$10,000.00	\$40,000.00	\$35,000.00	\$31,000.00	\$13,702.40	\$11,048.00	\$8,000.00	\$10,185.00
5	5. Asphalt paving	\$25,000.00	\$25,000.00	\$12,000.00	\$40,000.00	\$35,000.00	\$38,000.00	\$17,321.30	\$17,050.00	\$25,000.00	\$78,085.00
6	6. Earthwork	\$25,000.00	\$25,000.00	\$30,000.00	\$115,000.00	\$85,000.00	\$72,000.00	\$77,410.00	\$77,851.00	\$35,000.00	\$51,513.00
7	7. Recommended Subgrade	\$4,000.00	\$4,000.00	\$2,000.00	\$10,000.00	\$8,000.00	\$15,000.00	\$7,160.00	\$8,480.00	\$13,000.00	\$14,000.00
8	8. Moderate water	\$80,000.00	\$80,000.00	\$140,000.00	\$38,000.00	\$110,000.00	\$73,000.00	\$119,048.80	\$142,230.00	\$150,000.00	\$180,105.00
9	9. 6" ft chain link fence	\$10,000.00	\$10,000.00	\$10,000.00	\$3,250.00	\$11,000.00	\$7,150.00	\$12,381.20	\$12,636.00	\$11,000.00	\$11,654.00
10	10. 6" ft chain link fence	\$5,000.00	\$5,000.00	\$10,000.00	\$1,000.00	\$11,000.00	\$14,800.00	\$12,433.70	\$9,911.00	\$8,000.00	\$8,537.00
11	11. 4" chain link fence	\$5,000.00	\$5,000.00	\$10,000.00	\$1,000.00	\$11,000.00	\$14,800.00	\$12,433.70	\$9,911.00	\$8,000.00	\$8,537.00
12	12. 4" chain link fence	\$5,000.00	\$5,000.00	\$10,000.00	\$1,000.00	\$11,000.00	\$14,800.00	\$12,433.70	\$9,911.00	\$8,000.00	\$8,537.00
13	13. Tamarillo gates	\$4,000.00	\$4,000.00	\$2,000.00	\$8,000.00	\$3,000.00	\$22,000.00	\$38,808.70	\$32,670.00	\$30,000.00	\$30,550.00
14	14. Sign posts	\$1,000.00	\$1,000.00	\$1,000.00	\$5,000.00	\$4,000.00	\$1,000.00	\$1,004.40	\$2,626.25	\$2,700.00	\$1,748.00
15	15. Wood retaining wall	\$4,000.00	\$4,000.00	\$2,000.00	\$8,000.00	\$3,000.00	\$22,000.00	\$38,808.70	\$32,670.00	\$30,000.00	\$30,550.00
16	16. Pedestrian bridge	\$1,000.00	\$1,000.00	\$1,000.00	\$5,000.00	\$4,000.00	\$1,000.00	\$1,004.40	\$2,626.25	\$2,700.00	\$1,748.00
17	17. Manufactured bench	\$2,000.00	\$2,000.00	\$1,000.00	\$5,000.00	\$4,000.00	\$1,000.00	\$1,004.40	\$2,626.25	\$2,700.00	\$1,748.00
18	18. Gravel benches	\$2,000.00	\$2,000.00	\$1,000.00	\$5,000.00	\$4,000.00	\$1,000.00	\$1,004.40	\$2,626.25	\$2,700.00	\$1,748.00
19	19. Awnings etc	\$2,000.00	\$2,000.00	\$1,000.00	\$5,000.00	\$4,000.00	\$1,000.00	\$1,004.40	\$2,626.25	\$2,700.00	\$1,748.00
20	20. Benches	\$2,000.00	\$2,000.00	\$1,000.00	\$5,000.00	\$4,000.00	\$1,000.00	\$1,004.40	\$2,626.25	\$2,700.00	\$1,748.00
21	21. Trash enclosures	\$2,000.00	\$2,000.00	\$1,000.00	\$5,000.00	\$4,000.00	\$1,000.00	\$1,004.40	\$2,626.25	\$2,700.00	\$1,748.00
22	22. Landscape boulders	\$2,000.00	\$2,000.00	\$1,000.00	\$5,000.00	\$4,000.00	\$1,000.00	\$1,004.40	\$2,626.25		